

**Zortman and Landusky Mines
Memorandum of Understanding between the
Bureau of Land Management
and the
Montana Department of Environmental Quality**

Introduction:

The Zortman and Landusky mines operated from 1979 through 1998 when the mine operator, Zortman Mining, Inc. (ZMI) filed for bankruptcy protection. Since 1998, the Bureau of Land Management (BLM) and the Montana Department of Environmental Quality (DEQ) have worked together with the bankruptcy trustee, in the role of mine operator, to complete reclamation and closure of the mines. With the discharge of the ZMI bankruptcy proceedings, an operator of record no longer exists.

The BLM surface management regulations at 43 CFR 3809 for mining activities on public lands presume the presence of a mine operator. With the discharge of the bankruptcy, the BLM regards the Zortman and Landusky mines as abandoned mines.

Current conditions at the mines require the ongoing capture and treatment of mine drainage, and the removal and treatment of heap leach processing solution. Since 1999, the DEQ has been operating the mine drainage and heap solution water treatment plants. Funding for this effort has been provided, in part, by the ZMI surety bonds posted with the State of Montana. The present capture and treatment systems remove mine drainage or leach pad solution that is either from BLM lands or would impact BLM lands.

BLM has reviewed conditions at the Site and determined that, concurrent with the DEQ actions, the capture and treatment activities should continue as time-critical removal actions through the agency's delegated authority (Executive Order 12580) under the Comprehensive, Environmental, Response, Compensation, and Liability Act (CERCLA) in order to protect public lands and resources. An Action Memorandum has been prepared to document the BLM's removal action determination (Attached).

Purpose

The purpose of this memorandum of understanding (MOU) is to coordinate the current DEQ water treatment activities with the BLM's removal actions in order to avoid duplication of effort and maintain efficient operation of the capture systems and treatment plants.

Authority

The Federal Land Policy and Management Act of 1976, Section 307(b), 43 U.S.C. 1737; and Montana Code Annotated (MCA) at 75-10-603 and 82-4-323.

Points of Agreement

The BLM and DEQ agree as follows:

1. DEQ will continue to operate the two mine drainage capture and treatment systems (designated OU1) and the heap solution treatment and disposal system (designated OU2) for BLM, as removal actions under BLM's CERCLA authority, in addition to operating these systems as part of DEQ's mine reclamation effort under the Montana Metal Mine Reclamation Act (82-4-301 et. Seq. MCA).
2. Day to day operation of OU1 and OU2 will continue to be done by contractor under contract with the DEQ, using funds provided by the surety companies. Contracted activities will be conducted in accordance with Montana statute and authority, and with BLM's CERCLA procedures.

3. BLM will provide supplemental funding to DEQ, to the extent allowed in BLM's budgeting process; in order to maintain operation of the water treatment plants after the annual surety payment has been expended.
4. DEQ will not charge the BLM for the use of any DEQ equipment, supplies, facilities, land, infrastructure or personnel at the site used to conduct or support the removal actions.
5. BLM will not charge DEQ any rent or lease fees for the buildings, treatment plants, facilities or support structures that are located on BLM lands and used to conduct or support the mine reclamation or removal actions.
6. The areas of mine reclamation (pits, pads, waste rock piles, etc.) are designated by BLM as Operating Unit 3 (OU3). Presently, these areas are being reclaimed in accordance with the agencies' mine reclamation requirements. Additional CERCLA removal actions may be necessary to protect BLM lands. BLM and DEQ agree to cooperate in any future removal actions taken on or adjacent OU3 components.

Funding

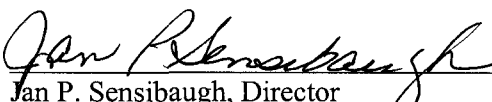
Nothing in this MOU shall obligate the BLM to expend appropriations or to enter into any contract or other obligation. Specific work projects or activities that involve the transfer of funds, services, or property between the MOU parties will require the execution of separate agreements or contracts, contingent upon the availability of funds as appropriated by Congress. Each subsequent agreement or arrangement involving the transfer of funds, services, or property shall be made in writing and shall be independently authorized by appropriate statutory authority and regulations, including those applicable to procurement activities.

Termination of Agreement

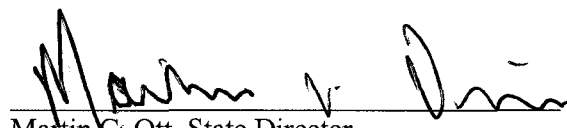
This agreement shall terminate 60 days after written notice by either party, with or without cause.

Effective Date

This agreement is effective upon signing by both the BLM State Director and the Director of the Montana Department of Environmental Quality.


Jan P. Sensibaugh, Director
Montana Department of Environmental Quality


Date


Martin C. Ott, State Director
Bureau of Land Management


Date

Attachment – 1

Action Memorandum for the Zortman and Landusky Mines Time-Critical Removal, Operable Unit 1 & Operable Unit 2, 44 pages.